



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice includes the summaries of two petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments including the docket number of the petition by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Jessica Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Jessica Senk, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Senk.Jessica@dol.gov (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2021-002-M

Petitioner: Tata Chemicals Soda Ash Partners, P.O. Box 551, Green River, Wyoming (Zip 82935).

Mine: Tata Chemicals Mine, MSHA ID No. 4800155, located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 57.22305 (Approved equipment (III mines)).

Modification Request: The petitioner requests a modification of the existing standard, to permit an alternative method of compliance for the respiratory protection of miners. The petitioner proposes to use a non-MSHA approved, intrinsically safe air purifying respirator (PAPR)

product called a 3M Versaflo TR-800 (TR-800) under normal mining conditions in or beyond the last open crosscut, and where methane may enter the air current.

The petitioner states that:

- (a) The TR-800 PAPR respirator will offer miners the best respiratory protection possible from exposure to nuisance dust and incorporate the latest available technology in respiratory protection.
- (b) Tata's safety department has spent time researching available PAPRs and have found only two respirators with MSHA approval. One, the 3M Airstream model has been discontinued by the manufacturer, and the other, the Kasco K80 ET8 can create problems with communication. Specifically, miners depend highly on communication and their ability to see, and the Kasco K80 ET8 can cause communication problems due to the hood being too large requiring removal by miners to hear or speak. In addition, the hood is so large a miner's peripheral vision may be impaired.
- (c) The TR-800 provides a level of respiratory protection and safety equal to the 3M Airstream. This unit provides an alternative means of respiratory protection for different tasks which miners are required to perform and affords Tata an additional option to provide respiratory protection for employees.
- (d) The TR-800 unit is designed and approved under the following standards for the United States and Canada: Underwriter Laboratories (UL) UL913; UL 60079-0; UL 60079-11; UL 62133 (Battery Pack); UL marked for intrinsic safety when used with the battery, Canada/Canadian Standards Association (CAN/CSA) CAN/CSA C22.2 No. 60079-0; CAN/CSA C22.2 No. 60079-11; and CAN/CSA - E62133.
- (e) The TR-800 keeps the air flowing — a multi-speed blower functions up to 16,000 feet and battery offers long run time, less charge time and, ultimately, reduced down time.
- (f) The TR-800 utilizes cartridges to help protect against certain gas and vapors, combined with filters for protection against particulates.

- (g) The TR-800 PAPR respirator allows the operator to wear the 3M TR-800 unit without using his/her issued hardhat.
- (h) The TR-800 unit can be easily disassembled and cleaned.

The petitioner proposes the following alternative method:

- (a) While not in operation, the TR-800 units will be charged out-by the last open crosscut utilizing the manufacturer's approved battery charger.
- (b) Affected mine employees will be trained in the proper use and care of the TR-800 PAPR unit in accordance with established manufacturer guidelines. Task training and annual refresher training will be documented using MSHA form 5000 – 23.
- (c) If 1.0 percent or more methane is detected, the procedures in 30 CFR Part 57.22234 will be followed.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M-2021-003-M

Petitioner: Tata Chemicals Soda Ash Partners, P.O. Box 551, Green River, Wyoming (Zip 82935).

Mine: Tata Chemicals Mine, MSHA ID No. 4800155, located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 57.22305 (Approved equipment (III mines)).

Modification Request: The petitioner requests a modification of the existing standard, to permit an alternative method of compliance for the respiratory protection of miners. The petitioner proposes to use a non-MSHA approved, intrinsically safe air purifying respirator (PAPR) product called a CleanSpace EX under normal mining conditions in or beyond the last open crosscut and where methane may enter the air current.

The petitioner states that:

- (a) The CleanSpace EX PAPR respirator will offer miners the best respiratory protection possible from exposure to nuisance dust and incorporate the latest available technology in respiratory protection.
- (b) Tata's safety department has spent time researching available PAPRs and have found only two respirators with MSHA approval. One, the 3M Airstream model has been discontinued by the manufacturer, and the other, the Kasco K80 ET8 can create problems with communication. Specifically, miners depend highly on communication and their ability to see, and the Kasco K80 ET8 can cause communication problems due to the hood being too large requiring removal by miners to hear or speak. In addition, the hood is so large a miner's peripheral vision may be impaired.
- (c) The CleanSpace EX provides a level of respiratory protection and safety equal to the 3M TR-800 with additional enhancements to meet the needs of the miners. This unit provides an alternative means of respiratory protection for different tasks which miners are required to perform and affords Tata an additional option to provide respiratory protection for employees.
- (d) The CleanSpace EX unit is certified by Underwriter Laboratories (UL) under the American National Standards Institute /UL 60079-11 standard. Per this certification, the CleanSpace EX unit is specialized to be used in hazardous locations; has met the most onerous level of intrinsic safety protection: and the level of protection is acceptable for use in mines susceptible to firedamp.
- (e) The CleanSpace EX incorporates a lithium polymer battery that does not detach from the electrical circuit and charges as a complete unit. It has an 8-hour continual use with a rapid 2 hour re-charge.
- (f) The CleanSpace EX unit provides a NIOSH approved high capacity, high efficiency (HEPA) particulate/vapor filter for the half mask and a NIOSH approved HEPA particulate filter for the full facemask.

- (g) NIOSH has approved the half mask or the full-face mask. The CleanSpace EX does not restrict the vision or impair communication of the user.
- (h) The CleanSpace EX allows the operator to wear his issued hardhat with miner's headlamp.
- (i) The CleanSpace EX incorporates technology which places the filter housing and fan assembly above the shoulders. This design addresses several ergonomic restrictions. The unit frees the operator of having to wear the fan and filter assembly around their waist. Furthermore, there is not a hose attached to the filter/battery assembly which could create additional potential hazards.
- (j) The CleanSpace EX also affords Tata Chemicals the ability to quantitatively fit test employees.
- (k) The CleanSpace EX respirator provides a level of comfort beyond additional PAPR units when operating mining equipment due to limited space and mobility in the operator's cab.
- (l) The CleanSpace EX unit can be easily disassembled and cleaned.

The petitioner proposes the following alternative method:

- (a) While not in operation, the CleanSpace EX units will be charged out-by the last open crosscut utilizing the manufacturer's approved battery charger.
- (b) Affected mine employees will be trained in the proper use and care of the CleanSpace EX PAPR unit in accordance with established manufacturer guidelines. Task training and annual refresher training will be documented using MSHA form 5000 – 23.
- (c) If 1.0 percent or more methane is detected, the procedures in 30 CFR Part 57.22234 will be followed.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica Senk,
Director,
Office of Standards, Regulations, and Variances.

